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4 **UNITED STATES DISTRICT COURT FOR THE**
5 **CENTRAL DISTRICT OF CALIFORNIA**
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9 SANDRA KIRKMAN, CARLOS
10 ALANIZ, individually and successors-in-
interest to JOHN ALANIZ, deceased,

11 Plaintiff,

12 vs.
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14 STATE OF CALIFORNIA, RAMON
15 SILVA, and DOES 1-10, inclusive,

16 Defendants.
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Case No. 2:23-cv-07532-DMG-SSC
[*Hon. Dolly M. Gee*]

**[PROPOSED] ORDER GRANTING
PLAINTIFFS' MOTION FOR AN
ORDER CERTIFYING
DEFENDANTS' INTERLOCUTORY
APPEAL AS FRIVOLOUS AND
RETAINING JURISDICTION**

[PROPOSED] ORDER

Before the Court is Plaintiffs' Motion for an Order Certifying Defendants' Interlocutory Appeal as Frivolous and Retaining Jurisdiction. Having reviewed the memoranda submitted by the parties, IT IS ORDERED as follows:

This Court finds that the Interlocutory Appeal filed by Defendants of this Court's order denying in part Defendants' motion for summary judgment is an appeal from a denial of summary judgment on the grounds of the existence of disputed questions of material fact. "[I]mmediate appeal from the denial of summary judgment on a qualified immunity plea is available... when the appeal presents a 'purely legal issue...' However, instant appeal is not available ... when the district court determines that factual issues genuinely in dispute preclude summary adjudication." *Ortiz v. Jordan*, 131 S.Ct. 884, 891 (2011). The Ninth Circuit has held that "an order denying qualified immunity on the ground that a genuine issue of material fact exists is not a final, immediately appealable order." *Maropulos v. Cnty. of Los Angeles*, 560 F.3d 974, 975 (9th Cir. 2009) (internal citations omitted). As such, the instant appeal is not available, and this Court retains jurisdiction over this matter. The trial schedule remains in place as currently set.

IT IS SO ORDERED.

DATED: _____

Honorable Dolly M. Gee

United States District Court Judge